

REMARKS

Favorable reconsideration and allowance of the present application are respectfully requested. The Applicant recognizes and appreciates the Examiner's indication of allowable subject matter in claims 8 and 9. The subject matter of original claims 8 and 9 has been incorporated into new claims 20 and 21, along with the limitations of original claim 7 upon which claims 8 and 9 depended.

To facilitate prosecution of the present application, Applicant has chosen not to pursue cancelled claims 1 through 6. Applicant reserves the right to pursue these claims in a continuation application.

In the first office action mailed on June 3, 2005, the Examiner rejected claims 1, 4, 7, and 12 as anticipated by Avery; rejected claims 2, 3, 10, and 11 as obvious in light of Avery; rejected claims 5, 13, and 14 as obvious over Avery in light of Tighe; rejected claims 6, 15, and 16 as obvious over Avery in light of McFadden; rejected claims 17 and 18 as obvious over Hall in light of Lederer; and rejected claim 19 as obvious over Hall in light of Lederer and in further view of Charles. Applicant respectfully traverses these rejections.

In regard to the rejection of claims 7 and 12 as anticipated by Avery, Applicant submits that Avery does not anticipate those claims at least because Avery does not disclose a translucent candle cover as required in independent claim 7, upon which claim 12 depends. Claim 7 requires the combination of a "translucent candle cover" and "...wherein said length has sufficient dimension to extend said top portion of said sleeve above said attachment base..." In Avery, a "fibre or paper lining 80 is used between this [glass] casing and the electrical elements." There is nothing in Avery's disclosure to suggest the translucency of the

“fibre or paper lining.” Thus, the “translucent candle cover” requirement of claim 7 is not met. Claim 12 recites further limitations and is allowable in its combination.

With regard to the rejection of claims 10 and 11 as obvious over Avery, Applicant submits that extending the top portion of the sleeve approximately 1/8 to 1/4 inch above the attachment base, and more preferably approximately 1/4 inch above the attachment base, is not obvious. While the Examiner asserted that only routine skill in the art is necessary to discover this optimum or working range, Applicant submits that Avery does not motivate one of skill in the art to experiment with the sleeve’s extension above the attachment base. In fact, it is physically impossible for Avery’s tubular casing 79 to extend more than a very small amount because of the positioning of light bulb 20. See Figure 1 of Avery. For example, the extended sleeve of claim 10 can allow light from a light bulb to enter the translucent and transparent regions of the candle assembly and create an appearance that resembles a real candle. The purpose of the tubular casing in Avery is to protect the electrical parts within the casing, and there is therefore no motivation to extend the casing beyond the area in which the electrical parts are disposed. Therefore, claims 10 and 11 are allowable over Avery.

Regarding the rejection of claims 13 and 14 as obvious over Avery in light of Tighe, Applicant submits that neither Avery nor Tighe discloses coating with “a colored material to provide a translucent layer” (claim 13) or coating with “fired paint” (claim 14). The Examiner stated that “[i]t would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the candle light assembly of Avery to include the type of colored glass blown by heat as taught by Tighe in order to simulate the appearance of an ordinary candle flame and hide the interior bulb core and body filling...” Upon review of the Tighe reference, however, Applicant cannot locate any disclosure of a translucent layer or a

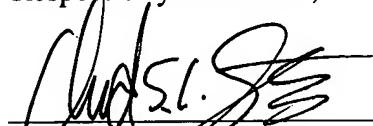
fired paint layer in the Tighe reference. Without disclosure of these elements in one of the cited references, Applicant submits that claims 13 and 14 are not obvious.

Claims 17 and 18 were rejected as obvious over Hall in view of Lederer. Applicant submits that neither reference discloses the use of fired paint. In addition, neither reference discloses “the interior surface of said sleeve being coated with a colored material.” (Claim 17). At Column 2, Lines 29-32, Hall states that “the tip 24 of the lamp may be flame tinted or any other desired color...and the outer shell 20 may be of any desired color.” Applicant submits that the “flame tinted” verbiage in Hall is merely describing the potential color of tip 24 as similar to that of a real candle flame. This is different than the fired paint of claim 18. Lederer, which was cited by the Examiner as teaching “a candle cover (10,11) coated on its interior surface with a colored film wrap (13, col.2, lines 38-49) for the purpose of providing decorative coloring to the cylinder holder or cover (10,11) and providing the effect of a wax candle (col.2, lines 1-14),” actually only discloses “the effect of a wax candle contained within an etched and colored decorative holder.” (Column 2, Lines 12-13). That is, Lederer is directed to a votive candle emulation device where the light source is placed at the bottom of a cylindrical member. The light source in Applicant’s invention is placed near the top of the elongated sleeve—a much different configuration from Lederer. As such, Lederer does not disclose a “sleeve” as that term is used in claim 17.

Claims 15 and 16 were rejected as obvious over Avery in light of McFadden. In addition, claim 19 was rejected as obvious over Hall in light of Lederer and in further view of Charles. Without commenting upon the reasons for rejection of these claims, Applicant submits that these claims are allowable as dependent upon allowable base claims and for the further limitations they provide.

Inasmuch as all issues raised by the Examiner have been addressed, it is submitted that the present application is in condition for allowance, and action to such effect is respectfully requested.

Respectfully submitted,



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